IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7846 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

R.J. SHETH

Versus

BAHADURSING ONARSING DELETED AS PER COURT'S ORDER

Appearance:

M/S THAKKAR ASSOC. for the Petitioner.

MR RAJNI H MEHTA for Respondents.

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 01/02/2002

ORAL JUDGEMENT

Rule. Heard the learned counsel for the parties. This petition has been filed for expunging the remarks against the advocate for the petitioner made in para-13 of the judgment and award date 12.7.2001 in MAC

Petition No. 869 of 1992 delivered by Motor Accident Claims Tribunal (Main), Surendranagar.

2. The remarks sought to be expunged read as follows:

> " It is a matter of great surprise that the claimants of the present claim petition and his learned advocate have not come with clean hands before this Tribunal. They have produced a false document vide exh. 51 which is a service certificate of the deceased Shyamsing Bahadursing. The learned advocate for the claimants has forgotten that as per the averments made in the claim petition, the deceased was serving on the truck, bearing registration no. GTK 2407 as cleaner, but the certificate exh. 51 shows that the decease Shyamsing Bahadursing was serving with the truck, bearing registration no. GQA 5799. This type of practice on the part of the claimants is very unfair."

3. The contention of the learned counsel for the petitioner is that whenever any document is given by the client to his advocate, it is the pious duty of the advocate concerned to produce them before the court of law or Tribunal. In the present case, some certificate exh. 51 was produced by the claimant himself during the cross-examination by insurance company and the claimant himself produced the same before the Tribunal.

4. In my opinion, there is no malafide intention on the part of the petitioner's advocate. Without giving an opportunity, such remarks are uncalled for and they cannot be sustained in the eye of law. Accordingly, the remarks made against the petitioner's advocate for the claimant are liable to be expunged.

5. In view of the above, this petition is allowed. The adverse remarks made against the petitioner's advocate for the claimant/petitioner in para-13 of the judgment and award dated 12.7.2001 in MAC Petition no. 869 of 1992 delivered by the Motor Accident Claims Tribunal, (Main), Surendranagar are hereby expunged. Rule is made absolute accordingly with no order as to costs.

...

***darji